Supreme Court, U.S.
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No. 90-1859

In the Supreme Court of the United States

OCTOBER TERM, 1991

J.C. KEENEY,

Petitioner,

v.

JOSE TAMAYO-REYES,

Respondent.

On Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED JUNE 3, 1991
CERTIORARI GRANTED OCTOBER 7, 1991

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The following opinions have been omitted in printing this appendix because they appear on the following pages of the printed petition for certiorari:

Opinion of the Ninth Circuit Court of Appeals	App-1
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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

Feb. 8, 1988 — Petition for writ of habeas corpus filed.

Oct 17, 1988 — Respondent Keeney's motion for summary judgment.

June 16, 1989 — Tamayo-Reyes' motion to allow filing of memorandum to the summary judgment motion and requesting an evidentiary hearing.

June 16, 1989 — Tamayo-Reyes' memorandum in opposition to respondent's motion for summary judgment motion and in support of his request for an evidentiary hearing.

Sept. 20, 1989 — Keeney's response to Tamayo-Reyes' request for an evidentiary hearing.

Jan. 5, 1990 — Magistrate's Findings and Recommendation, respondent Keeney's motion for summary judgment should be allowed and petitioner Tamayo-Reyes' motion for evidentiary hearing should be denied

Jan. 19, 1990 — Tamayo-Reyes' objections to Magistrate's Findings and Recommendation

Mar. 5, 1990 — United States District Court's Opinion adopting Findings and Recommendation.

Mar. 5, 1990 — United States District Court's Order adopting the Magistrate's Findings and Recommendation.

Mar. 7, 1990 — Judgment.

Apr. 4, 1990 — Notice of appeal by Tamayo-Reyes.

Apr. 9, 1990 — Certificate of probable cause issued.

Mar. 4, 1991 — Ninth Circuit's Opinion.

June 3, 1991 — Petition for certiorari filed.

Oct. 7, 1991 — Certiorari granted.

TRANSCRIPT OF STATE COURT HEARING

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

-oOo-

STATE OF OREGON	)	
Plaintiff,	)	
vs.	)	No. C84-09-33779
JOSE TAMAYO-REYES,	)	
Defendant.	)	

-oOo-

PROCEEDINGS

Tuesday, December 11, 1984

Before:

HONORABLE ROBERT W. REDDING, Circuit Court Judge

APPEARANCES:

Ms. Helen Smith, Deputy District Attorney,
On behalf of the State of Oregon.

Mr. Tommy Hawk, Attorney at Law,
On behalf of the Defendant.

Mr. Ben A. Sanchez, Interpreter.

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MORNING SESSION

THE COURT: Thank you. We'll be back in session.

MS. SMITH: Good morning, your Honor. This is State of Oregon versus Jose Tamayo-Reyes, C84-09-33779. Mr. Tamayo-Reyes is before the Court this morning with Counsel, Mr. Tommy Hawk. Helen Smith appearing on behalf of the State of Oregon. Also present is the interpreter, Mr. Sanchez.

We are before the Court at this time for a change of plea. I am forwarding to the Court the petition to enter the plea, the order entering the plan, a waiver of jury trial, and the police reports.

THE COURT: Did you use one of our Spanish language plea petitions?

MR. HAWK: No, we did not, Your Honor. I had Mr. Sanchez translate the English form, from English to Spanish, directly to the defendant in my presence. Mr. Sanchez went over the form with him in Spanish. I asked him if he understood it. He indicated he did understand it, and did wish to proceed as we contemplate proceeding this morning.

THE COURT: Mr. Sanchez, you're a member of the Oregon State Bar.

THE INTERPRETER: Yes, Your Honor.

THE COURT: And you speak, read, and write Spanish

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fluently?

THE INTERPRETER: I do not write or read Spanish. I only speak it.

THE COURT: Did you read this plea petition to Mr. Reyes in Spanish?

THE INTERPRETER: Yes, I did, Your Honor.

THE COURT: In your judgment, did he understand what you read to him?

THE INTERPRETER: Yes, he so indicated, Your Honor.

THE COURT: And in your judgment, did he make a knowing and voluntary waiver of all of the rights that are explained in the plea petition?

THE INTERPRETER: He indicated he understood and waived them, yes, Your Honor.

THE COURT: And do you understand it to be his choice — or did he express to you the choice to have this conviction go on his record, rather than having a jury trial?

THE INTERPRETER: Yes, Your Honor.

THE COURT: Mr. Reyes — would you ask Mr. Reyes for me: Mr. Reyes, did Mr. Sanchez explain your rights to you in Spanish?

THE WITNESS: (Through the interpreter.) Yes.

THE COURT: Do you have any questions about your rights?

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THE WITNESS: No.

THE COURT: You understand that you're presumed to be innocent?

THE WITNESS: Yes.

THE COURT: You have the right to a jury trial. The state would have the burden of proving you were guilty beyond any

reasonable doubt. You'd have the right to remain silent, but you could testify if you want to. You could call witnesses to testify for you. You could subpoena those witnesses to make them appear. You could cross-examine all of the state's witnesses. You could be assisted throughout the trial by your lawyer, Mr. Hawk, and be assisted by an interpreter, Mr. Sanchez.

If you were convicted, you would have certain rights of appeal. But if you plead no contest to this charge, you'll be giving up all of those rights, and this conviction will be on your record just as if you were convicted at trial. The maximum penalty, whether you were convicted by a jury, or plead no contest, is 20 years. And that penalty is the same whether you plead no contest or were convicted by a jury. Do you understand what I've explained to you?

THE WITNESS: More or less.

THE COURT: Do you have any questions that you want to ask me?

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THE WITNESS: No.

THE COURT: Do you choose to plead no contest and have the conviction go on your record, rather than have a jury trial?

THE INTERPRETER: He doesn't know anything about such things.

THE COURT: Do you choose to have this conviction for manslaughter, rather than have a jury trial?

THE INTERPRETER: He says, "I don't comprehend."

THE COURT: You have two choices: You can have a jury trial on the charge of murder, or you can be convicted at this time, by your agreement, of the charge of manslaughter.

MR. HAWK: May I have a moment Your Honor?

(Discussion held off the record between Mr. Hawk, Mr. Tamayo-Reyes and Mr. Sanchez.)

THE INTERPRETER: He says, "Okay."

THE COURT: Mr. Reyes, do you now understand the choice between having a jury trial on the charge of murder —

THE WITNESS: (Through the interpreter.) Yes.

THE COURT: And you choose to be convicted today of the charge of manslaughter, without a jury trial?

THE WITNESS: Yes.

THE COURT: And Mr. Reyes, you understand that this

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could lead to your being

expelled from the United States?

THE INTERPRETER: Yes, he understands.

THE COURT: This wasn't included on the plea petition, and by statute it's supposed to be.

MS. SMITH: I thought it was stamped on it somewhere.

THE COURT: It's not.

MR. HAWK: I point out, Your Honor, that one of the things that we did discuss, myself, Mr. Sanchez, and the defendant, in some detail yesterday, was the fact that there would be Immigration Service implications to this, and we trial to anticipate what they would be. So that is something that the defendant is aware of.

THE COURT: Did you speak to him about the possibility that he could be held, in effect, in custody by the Immigration people?

MR. HAWK: We told him in all likelihood, at the expiration of whatever term of confinement he had in Oregon, that he would go directly to a federal institution in Atlanta, and be incarcerated there. We told him we didn't know how long that would be, but that would be certain to happen.

His concern was — well, he understood that. He understood that that was going to happen.

THE COURT: How long could he possibly be held

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there?

MR. HAWK: I understand, through conversations with the state, that the present policy of the government is to retain persons such as Mr. Reyes, no longer than a six-month period; is that correct?

MS. SMITH: That's what I was informed by Immigration, after we had our conversation, Your Honor. We were both initially under the impression that we put them there and left them, although I found that pretty hard to believe. When I talked to Immigration, they told me since he's from Cuba, and can't be deported back to Cuba, the best I could expect was they would take him over to Atlanta and that he'd do about six months, and then he'd be released.

MR. HAWK: It was put to him that that's what we anticipate would happen. I don't quite frankly think any of us can tell him exactly, but I suppose just physics tells us you can't keep putting people there without letting any of them out, without expanding the size of the facility. That's just the best information we can provide him.

THE COURT: And on the jury trial waiver, did you read that to Mr. Reyes in Spanish?

THE INTERPRETER: I did. I explained it to him, Your Honor.

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THE COURT: And he signed that knowing that he was giving up his right to jury trial by signing that?

THE INTERPRETER: Yes, Your Honor.

MR. HAWK: That was also done in my presence, Your Honor, and I executed it after the Spanish recitation.

THE COURT: It appears that this morning Mr. Reyes understands all of the rights that I've gone over with him, and that are explained in the plea petition, and he's making a knowing and voluntary waiver of those rights and chose to plead no contest and accept the consequences of a conviction for manslaughter in the first degree.

It appears further that there's a factual basis to support that plea, based on the evidence that I've heard at the prior bail hearing and suppression hearing.

I'm going to accept the plea of guilty to the manslaughter in the first degree charge, and order a pre-sentence report.

MR. HAWK: In that regard, Your Honor, I would like to advise the Court that a pre-sentence has been prepared on a related offense in this county, which may expedite the time period for us all. That was recently prepared, and completed, and furnished to Mr. Sanchez in the last week or so.

THE COURT: I'll set it for the 22nd at 9:00

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o'clock for sentencing.

MR. HAWK: Are you talking about this month, or next month?

THE COURT: No. Pardon me, the 22nd of January. Are you both going to be available?

THE INTERPRETER: Yes, I will be.

MR. HAWK: What time again, Your Honor, on the 22nd?

THE COURT: 9:00 a.m.

MR. HAWK: 9:00 a.m.

THE COURT: Thank you.

MR. HAWK: Thank you, Your Honor.

(Hearing adjourned.)

PLEA PETITION

In the Circuit Court of the State of Oregon
for Multnomah County

STATE OF OREGON
Plaintiff,

vs. C C84-09-33779

CA No. 9000 48

Jose Tamayo-Reyes
Defendant

PETITION TO ENTER PLEA
OF ~~GUILTY~~ NOLO CONTENDERE[1]

The defendant represents to the Court:

1. My full true name is: Jose Tamayo-Reyes
and I am also known as: _____
and I request that all proceedings against me be had in my true name.

2. I am represented by a lawyer, his name is Tommy Hawk

3. I wish to plead ~~GUILTY~~ Nolo Contendere to the charge(s) of manslaughter I (1st Degree) lesser included offense in Indictment

4. I told my lawyer all the facts and circumstances known to me about the charges against me. I believe that my lawyer is fully informed on all such matters. My lawyer has counselled and advised me on the nature of each charge; on any and all lesser included charges; and on all possible defenses that I might have in this case.

[1]Throughout this petition, portions of the petition form which were manually filled in or manually substituting crossed-out language are indicated by underscoring.

5. I understand that I may plead "Not Guilty" to any offense charged against me. If I choose to plead "Not Guilty" the Constitution guarantees me (a) the right to a speedy and public trial by jury, (b) the right to see, hear and face in open court all witnesses called to testify against me. (c) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor, and (d) the right to have the assistance of a lawyer at all stages of the proceedings, and (e) also the right to take the witness stand at my sole option; and, if I do not take the witness stand, I understand the jury will be told that this may not be held against me.

6. I also understand that if I plead ~~"GUILTY"~~ "Nolo Contendere" the Court may impose the same punishment as if I had plead "Not Guilty", stood trial and been convicted.

7. I know that if I plead ~~"Guilty"~~ "Nolo Contendere" to this charge (these charges), the maximum possible sentence is (20) twenty years imprisonment and/or a fine of $100,000. I know also that the sentence is up to the Court. The District Attorney will take no part other than providing to the Court, Police Reports and other factual information as requested by the Court, and the District Attorney shall make no recommendations to the Court concerning my sentence except as follows Twenty years — 8 (eight) year minimum

8. I have ☒ have not ☐ been convicted of one or more felonies in the past as follows: awaiting sentence — Mult Co — Theft I (1/25/85 sentencing (J Olsen)[)]

9. I am ☐ am not ☒ presently on probation or parole. I understand that by pleading guilty in this case this may cause revocation of my probation or parole, and that this could result

in a sentence of _____ years in that case. I further understand that if my parole or probation is revoked, any sentence in that case may be consecutive to or in addition to any sentence in this case.

10. I also know that the law provides for an increase in the maximum sentence described in Paragraph 7 to a maximum of 30 years if I qualify as a dangerous offender. I understand that this may happen in this case. ☐ If not applicable, check ☒

11. I am 36 years of age. I have gone to school up to and including no formal education ; my physical and mental health is presently satisfactory. At this time I am not under the influence of any drugs or intoxicants (nor was I at the time the crime was committed), except: under the influence of alcohol at time of incident

12. I declare that no officer or agent of any branch of government (Federal, State or local) has made any promise or suggestion of any kind to me, or within my knowledge to anyone else, that I will receive a lighter sentence or probation, or any other form of leniency if I plead ~~"GUILTY"~~ "Nolo Contendere" except: I will not be charged with murder but may plead "Nolo Contendere" to Manslaughter I

13. I believe that my lawyer has done all that anyone could do to counsel and assist me. I AM SATISFIED WITH THE ADVICE AND HELP HE HAS GIVEN ME; I recognize that if I have been told by my lawyer that I might receive probation or a light sentence, this is merely his prediction and is not binding on the Court.

14. I plead ~~"GUILTY"~~ Nolo Contendere and request the Court to accept my plea of ~~"GUILTY"~~ Nolo" and to have entered my plea of ~~"GUILTY"~~ "Nolo" on the basis of (please

write in operative facts) I request court to consider testimony of witnesses who testified during my bail hearing as factual basis for my plea.

15. I OFFER MY PLEA OF ~~"GUILTY"~~ "Nolo Contendere" FREELY AND VOLUNTARILY AND OF MY OWN ACCORD AND WITH FULL UNDERSTANDING OF ALL THE MATTERS SET FORTH IN THE INDICTMENT AND IN THIS PETITION AND IN THE CERTIFICATE OF MY LAWYER WHICH FOLLOWS.

16. I further state that I wish to waive the reading of the indictment or information in open court. I request the court to enter my plea of ~~"GUILTY"~~ "Nolo Contendere" as set forth in paragraph 14.

Signed by me in the presence of my attorney this 11 day of Dec , 1984 .

	/s/ Jose Tamayo Reye
Address	Defendant

Translated from English to Spanish in presence of Jose Tamayo-Reyes 12/11/84

CERTIFICATE OF COUNSEL

The undersigned as lawyer and counsellor for the above defendant hereby certifies:

1. I have had read and fully explained to the defendant the allegations contained in the indictment in this case.

2. To the best of my knowledge and belief the statements, representations and declarations made by the defendant in the foregoing petition are in all respects accurate and true.

3. I have explained the maximum penalty for each count to the defendant, and consider him competent to understand the charges against him and the effect of his petition to enter a plea of guilty.

4. The plea of ~~"GUILTY"~~ "Nolo Contendere" offered by the defendant in paragraph 7 accords with my understanding of the facts he related to me and is consistent with my advice to the defendant.

5. In my opinion the plea of ~~"GUILTY"~~ "Nolo Contendere" is offered by the defendant in paragraph 7 of the petition is voluntarily and understandingly made. I recommend that the Court accept the plea of ~~"GUILTY"~~ "Nolo Contendere".

6. Having discussed this matter carefully with the defendant, I am satisfied, and I hereby certify, in my opinion, that he is mentally and physically competent; there is no mental or physical condition which would affect his understanding of these proceedings; further, I state that I have no reason to believe that he is presently operating under the influence of drugs or intoxicants. (Any exceptions to this should be stated by counsel on the record.)

Signed by me in the presence of the defendant above named and after full discussion of the contents of this certificate with the defendant, this 11 day of Dec, 1984.

[Signature and certification omitted in printing]

AMENDED PETITION
FOR POST-CONVICTION RELIEF

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

JOSE TAMAYO REYES, Petitioner	)	No. 85-2612
vs.	)	
J.C. KEENEY, Superintendent, Oregon State Penitentiary, Defendant.	)	AMENDED PETITION FOR POST-CONVICTION RELIEF

Petitioner alleges:

1.

Petitioner is imprisoned in the Oregon State Penitentiary in Marion County, Oregon, and is unlawfully confined and restrained of his liberty by the above-named Defendant.

2.

Petitioner is imprisoned by virtue of a Judgment and sentence imposed by the Circuit Court for the State of Oregon for the County of Multnomah in the Case of *State of Oregon v. Jose Tamayo Reyes*, Case Number C84-09-33779. The Judgment purports to sentence Petitioner to a sentence of twenty (20) years.

3.

Petitioner did not appeal his case to the Oregon Court of Appeals and has not filed a prior Petition for Post-Conviction Relief. Petitioner has not filed any prior Post-Conviction proceedings.

4.

Petitioner is financially unable to retain counsel.

5.

Petitioner was originally charged with Murder in the First Degree. Petitioner was convicted of Manslaughter in the First Degree after a plea of guilty.

6.

Petitioner's trial attorney was Tommy Hawk.

7.

At all times mentioned herein, Petitioner was, and is, a lay-person and not learned in the law. At the above-mentioned proceedings, Petitioner relied upon the advice and representation of his attorneys in all matters pertaining to the law.

8.

Petitioner's imprisonment was, and is, illegal and the proceedings set forth above resulted in a substantial denial of Petitioner's rights in violation of ORS 138.530 as follows:

1. Petitioner did not knowingly or voluntarily enter a plea of guilty to the charge of Manslaughter in the First Degree, it being his understanding that the charge was being amended from Murder I to Manslaughter I and that he would then proceed to trial on the lesser charge.

2. Petitioner was denied effective or adequate assistance of counsel for the reason that Petitioner's attorney, Mr. Tommy Hawk, did not speak Spanish and Petitioner does not speak or understand English.

3. Petitioner was denied effective or adequate assistance of counsel for the reason that the interpreter, Mr. Ben Sanchez did not correctly, fully or accurately translate the communications between Petitioner and his attorney, which resulted in Petitioner's failing to understand that the charge was being reduced only because he was pleading guilty. Further, Petitioner did not understand that he was giving up

his rights to trial by jury to see, hear and confront the witnesses against him, to call witnesses and present evidence in his own behalf; and his right against self-incrimination.

WHEREFORE, Petitioner prays for an Order if this Court as follows:

1. Vacating the plea of guilty for the charge of Manslaughter I.

2. Remanding the case to the Circuit Court for Multnomah County for trial on the charge of Manslaughter I.

3. Other equitable relief.

[Signature omitted in printing]

DEPOSITION OF BEN SANCHEZ

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

JOSE RAMAYO REYES,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 85-1612 (*sic*)
	)	
J.C. KEENEY, Superintendent	)	
Oregon State Penitentiary,	)	
	)	
Defendant.	)	

DEPOSITION OF BEN SANCHEZ

Taken in perpetuation of testimony

in behalf of the Petitioner.

BE IT REMEMBERED That, pursuant to the stipulation of counsel for the respective parties hereinafter set forth, the deposition of BEN SANCHEZ, the witness herein, was taken in perpetuation of testimony before Leanne L. Pace, a Notary Public for Oregon, on Monday, September 22, 1986, beginning at the hour of 3:30 o'clock p.m., at the Department of Justice, Corrections Division, 240 Cottage Street, S.E., Salem, Oregon.

APPEARANCES:

RONALD M. HELLEWELL, of counsel, attorney for petitioner;

DEPARTMENT OF JUSTICE, by ROBERT J. JACKSON, of counsel, attorney for defendant.

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(At said time and place the following stipulation was entered into between the attorneys present in behalf of the respective parties:)

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys, that the deposition of BEN SANCHEZ, the witness herein, may be taken in perpetuation of testimony before Leanne L. Pace, a Notary Public for Oregon, at this time and place, on oral interrogatories, direct and cross, to be propounded to said witness, as by law provided.

It is further stipulated and agreed that all irregularities as to notice of time and place and manner of taken said deposition are hereby waived.

It is further stipulated that the reading and signing of the said deposition by the witness are hereby waived.

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BEN SANCHEZ, the witness herein, was thereupon produced as a witness to perpetuation of testimony and, having been first duly sworn by the Notary, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HELLEWELL:

Q Mr. Sanchez, please state your name for us, your full name.

A A. Ben Sanchez.

Q And were you involved as an interpreter in the case of State of Oregon versus Jose Tamayo Reyes?

A Yes.

Q And just for clarification that was on a charge of murder, is that correct?

A That is correct.
Q Also just for clarification first, you are now a member of the Oregon State Bar, is that correct?
A Yes.
Q And during the time of the court appearances in this case, the last few months of 1984 and the first month I believe in 1985, you were also then a member of the Oregon State Bar?
A That is correct.
Q And also for purposes of clarification, you did represent

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the same man as the attorney in other cases, is that correct?
A Yes.
Q Was that just one case?
A No. I believe there was a felony and a misdemeanor.
Q And during what period of time was that?
A Maybe — the cases, if I remember correctly, the cases were resolved after this one we resolved.
Q Okay. And did they begin before this case began?
A I couldn't tell you without looking at my records.
Q Again, just for purposes of identification, the murder case was Multnomah County case number 84-09-33779.
A The numbers I don't remember.
Q Okay.
A Being interpreter, I didn't pay attention to numbers. Just pay attention to — Mr. Tommy Hawk was the attorney of record.
Q Right. Tell us, how did you get involved in the case as an interpreter? Who called upon you?

A Both the Judge — Judge Bergman, I believe she was the appointed attorney — I mean, the appointed Judge. And Mr. Hawk, Mr. Tommy Hawk.
Q Were you paid through the court, or through the attorney?
A Through the court.
Q Speaking just for the murder case now, when did you begin

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your involvement in the case?
A I believe it was right at the beginning.
Q Does Mr. Tommy Hawk speak any Spanish?
A (Witness shakes head in the negative)
MR. JACKSON: You have to answer out loud.
(The witness continuing) No.
Q Thank you. Did you go with him on every occasion when he went to visit the defendant, Mr. Reyes?
A As far as I know I did.
Q Do you recall how many times the two of you did visit him?
A I would have to look at my notes. Offhand I don't know.
Q Did you visit Mr. Reyes on your own without Mr. Tommy Hawk being there?
A Not in regard with the murder case. I may have once. I may have once. Just to go see him to tell him so on and so forth. But I would have to look at my records.
Q Did you talk with Mr. Reyes about his background, education and so on?
A No.
Q Do you know where he is from?
A I know he's from Cuba.
Q Do you know how he arrived in the United States? Did he tell you?
A He's supposed to be one of the boat people.

Q Does Mariel (phonetic spelling) ring a bell?

[6]

A Martoletos (phonetic spelling).

Q Martoletos. And I understand that that's his situation, is that correct?

A That's the way I understood it, yes.

Q What is your background and education?

A I went to University, I went to Junior College. Came up to Willamette. And then from Willamette Law I went to Willamette Law School for two years, Northwest two years.

Q And what has been your experience as an interpreter in court?

A Most of the time I usually have an interpreter. I mean, in Portland I get appointed to many Spanish cases simply because there's nobody else that can speak Spanish fluently. So, I get a lot of those cases. That's how I came into the Reyes to begin with. And then when this — so, if I have a trial, I don't — I don't do my own translating. I have somebody else do it.

Q Of course not. So, as an interpreter for somebody else, can you explain what your experience is? How many times?

A I don't have very many times. I've had this one. And, um — the courts have called upon me a couple of times for other — when somebody else is not available and they have to have somebody real quickly.

Q Okay. What's been your training or education in the Spanish language?

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A That was my first language.

Q That was the language spoken at home?

A Yes.

Q Have you taken any Spanish courses, even advanced courses like literature or grammar, or anything in college?

A I had two years here in Willamette.

Q I believe the record will reflect that there was a change of plea in this case on December 11, 1984. Perhaps you don't recall the date. But do you remember the circumstances of that change of plea?

A I remember there was a change of plea from not guilty to guilty to the lesser included charge, if I remember correctly.

Q And you're present in court?

A Yes.

Q There was an exchange of information between the District Attorney and the attorney representing Mr. Reyes. And you were present during that exchange?

A To the best of my recollection I was there most of the time.

Q And while the others were speaking, did you translate the proceedings for the defendant, Mr. Reyes?

A Yes.

Q Prior to entering court on that day, did you assist Mr. Hawk in completing a plea petition?

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A Yes.

Q Also a waiver of jury form?

A Yes.

Q What were the circumstances of those, completing those papers, do you remember when and where?

A They were in the courtroom. I believe we read them out to the individual, to Mr. Reyes. Told him what they were. More than once. Maybe two or three times to make sure he understood. And he indicated he understood.

Q Was that on the date of the appearance for the change of plea in the courtroom?
A I think it was. I would have to look in my notes again.
Q Were you also present when, I guess the answer is obvious, when Mr. Hawk discussed the plea negotiations with Mr. Reyes?
A Yes.
Q Then you translated all that proceeding for them?
A That is correct.
Q Did you explain to Mr. Reyes the difference between a plea of guilty and a plea of no contest?
A I believe we did. No, I can't specifically tell you whether I did or not.
Q Do you recall if it was actually a no contest plea or a plea of guilty?
A I cannot tell you without looking at my records.

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Q Do you recall on the date that you appeared in court the Judge addressing the defendant, Mr. Reyes —
A (interposing) Yes.
Q (Mr. Hellewell continuing) Personally. And do you recall the Judge asking him through you if he understood his rights in the matter?
A Yes.
Q Do you recall his answer when the Judge asked him that question?
A If I remember correctly he said, yes, he indicated that he understood.
Q Do you recall the Judge asking him a question about if he wished to plead — plead no contest to the charge rather than of a trial, do you remember that specific question?

A No.
Q During the change of plea proceeding was there a time when you went off the record for a conversation?
A I believe there was.
Q Was that conversation between you and Mr. Hawk and Mr. Reyes, the defendant?
A They were discussing — I was just the interpreter. I had nothing do so with the legal — I was interpreter, that was it.
Q Okay. Do you recall what the — what they discussed off

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the record?
A Well, I believe probably they were discussing the ramifications of making a plea. Taking a lesser charge. Or if they went to trial what the possibility could be.
Q Okay. You suppose that's what it was about. But you don't recall at this moment?
A It's been two years ago.
Q Right. How long was that discussion off the record?
A I think it was various times when they discussed it back and forth.
Q Okay. Do you recall responding to the Judge, after this conversation off the record, "Mr. Reyes says okay," do you recall that?
A Probably.
Q Were you discussing at that time the problem about the immigration?
A There was some — some discussion as to the possibility, ramification of making a plea, and what could happen to him since he was — he was — didn't have papers.
Q And was that discussion in the courtroom that day, or on prior occasions?

A We discussed — we spoke together back and forth quite a number of times. I can't specifically tell you what we said that particular day.

Q Do you recall from this experience specifically some words

[11]

that were used? What word do you use, or what words did you use in this case to communicate to him the term murder?

A Murder — (in Spanish) — that he had killed somebody without the right to do so.

(WHEREUPON, an off the record discussion was had.)

Q And what word did you use for manslaughter?

MR. JACKSON: Maybe we ought to stop for a minute here and think how we're going to do this. We're going to have to spell out on the record what those words are and get them down phonetically or something, because there's now a blank in our record from the last part that he put in there. So, maybe we ought to see if we can't at least phonetically put down what he said for murder.

(WHEREUPON, an off the record discussion was had.)

(Mr. Hellewell continuing) Tell us again what word or phrase you used to communicate murder.

A One of the words is — (in Spanish) — killer.

Q That's M A T A —

A T A D O R (spelling).

Q Okay.

A The other word would be — (in Spanish).

MR. JACKSON: Q U E U S T E D (spelling)

(The witness continuing) (In Spanish)

Q M A T O (spelling). **[12]**

A Una persona

Q U N A is Una.

A Persona. Person with an A.

Q P E R S O N A (spelling).

A (In Spanish) — P E R M Y S S O (spelling). (In Spanish — D E R C H E O (spelling). (In Spanish) — P A R A M A T A (spelling). Una persona.

Q All right. Now, manslaughter.

A (In Spanish) — that it was less than murder.

Q Era is E R A (spelling) and menos is M E N O S (spelling).

A (Witness nods head in the affirmative)

Q Okay. How did you tell him knowing or knowingly?

A (In Spanish)

Q Can you —

A That he — (in Spanish).

Q E L (spelling)

A Savia.

Q S A V I A (spelling).

A Lo.

Q L O (spelling)

A (In Spanish)

Q Q U E —

A (In Spanish)

Q E S T A V A (spelling).

A (In Spanish)

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Q E S A N D O (spelling). Okay?

A Um hum.

Q Indifferent or indifference?

A No, I can't even know how I would have described that.

Q How about — let's see, when did — okay. During discussions with the attorney in regard to the plea negotiations, did you discuss these terms with him that we just talked about?
A Yes.
Q And did he — did he indicate that he understood what —
A (interposing) Yes.
Q (Mr. Hellewell continuing) The terms you were using. Okay. Did Mr. Reyes at any time read any documents in Spanish for you?
A I believe he read — I'm not positive, but I believe that he — in Multnomah County they have the forms in English and Spanish.
Q Did you —
A (interposing) The petition to enter a plea of guilty had been translated into Spanish.
Q Do you recall if he actually had any of those forms in Spanish and read them?
A No, I can't remember.
Q Did he communicate at all in English?
A No. Oh, well, a little bit. Broken English. There's so

[14]

many times in my experience has been that they can understand. But they're embarrassed because of the brokenness in the language, in the actual speaking of it that they rather not speak it. Although they may understand.

Q Okay. Now, I understand that you yourself don't often read Spanish, is that correct?
A Very little, unless I absolutely have to. And it has to be very slow.

Q So, the forms that you went over with him were printed in English?
A More likely than not, yes.
Q And you read them to him in Spanish?
A I translated it to him.
Q Did you — did you explain to him in either the process of the preparing the change of plea petition, or in open court that there would be no trial in the case?
A Very definitely.
Q Did he ask you about witnesses appearing for him?
A Yes.
Q Did he want to know if witnesses would be there?
A Yes.
Q And did you tell him that they would not?
A I told him that they would not unless there' [*sic*] a trial.
Q After the sentencing was imposed, did you go over with

[15]

him his — what had been said at sentencing, what it meant to him?

A Yes.
Q Did you discuss with him his right to appeal?
A Yes.
Q At the time of sentencing did he make any statement himself, that you can recall?
A I can't remember.
Q That you were present when the attorneys and Judge were speaking?
A Yes, I was there.
Q And you translated all those proceedings to him?
A Yes.

Q Prior to sentencing did you review with him the presentence investigation report?
A Yes.
Q Again with Mr. Hawk?
A Yes.
Q Did he have any questions about the process of preparing a presentence report, and then appearing for sentencing?
A Well, Mr. Hawk, I believe, if I remember correctly, explained to him what a police interview report was.
Q And did Mr. Reyes have any question?
A No. Didn't indicate that.
Q Do you recall specifically discussing with Mr. Reyes,

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prior to the change of plea, the recommendations by the District Attorney?
A Yes.
Q Do you recall what that recommendation was?
A (Witness shakes head in the negative)
Q Is it your practice, when appearing in court as an interpreter, to interpret every word that is spoken in a whisper to the defendant, even though no one is addressing him directly?
A I just normally — they put me between — they put the defendant between the attorney and the interpreter. And he just — I would just tell him what's happening.
Q Okay. And is that what you did in this case?
A More likely than not. I couldn't tell you —
Q Do you recall how many court appearances there were in this case?
A No. There were quite a number of them.

MR. HELLEWELL: Thank you. That is all the questions I have.

CROSS EXAMINATION

BY MR. JACKSON:

Q I have just got a couple. First I would like to have you take a look at this document. And I would like to have it marked as a deposition exhibit.

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(WHEREUPON, Defendant Deposition Exhibit No. 1 was marked for identification.)

A That appears to be the instrument — that appears to be the instrument — that appears to be the instrument that was presented to Mr. Toma (sic).
Q That's the plea agreement?
A Yes. I believe it —
Q Petition to enter a plea of guilty?
A Yes.

MR. JACKSON: Show you that and enter that.

Q Who filled out that document?
A I believe it was Tommy Hawk.
Q On the second page there there's some writing. It says translated from English to Spanish in person on Jose Tamayo Reyes. And then it has a signature. Is that your signature?
A Yes, it is.
Q And you signed at that time that you had in fact translated this entire document from English into Spanish and went over it with him?
A Yeah.
Q Is there any doubt in your mind that he understood what you were telling him in regards to these items?
A No.

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Q Okay. When you appeared in court — when you appeared in court for the change of plea hearing, did you take an oath as an interpreter?

A Yes.

Q And did you translate the proceeding from Spanish — from English to Spanish, and from Spanish to English, verbatim as they were said in English —

A (interposing) Yes.

Q (Mr. Jackson continuing) Or in Spanish. Did you have any difficulty communicating with Mr. Reyes in Spanish?

A No.

Q Was his dialect of Spanish similar to the one that you spoke as a —

A (interposing) There's a slight difference. Cuban — Carribean [*sic*] countries for some reason or other will usually drop the last syllable, or part of the last syllable. Miss half pronounce the last syllable. For example you say o'clock. It would be o'clock.

Q That didn't cause you any great amount of difficulty, did it?

A No. Because it's closer to Castillian [*sic*].

Q When Mr. Hellewell first began questioning you on this deposition he referred to something called Maraletos, or something close to that. And apparently you and he know what that is, but I don't. Could you enlighten me,

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please?

A That's what the people — boat people were called.

Q Okay.

A Where the name came from, I don't know. Just that's what they referred to.

MR. JACKSON: I have no further questions.

REDIRECT EXAMINATION

BY MR. HELLEWELL:

Q I'm sorry, I'm sure you answered this question before. Whose writing is that on the petition?

A I believe it's Tommy Hawk's. It's not mine. You can tell in between his writing and my signature. My chicken scratch.

Q And did Mr. Reyes sign this himself?

A Yes.

MR. HELLEWELL: Thank you. I have nothing further.

(CONCLUSION)

TRANSCRIPT OF PROCEEDINGS

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

JOSE RAMAYO REYES,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 85-2612
	)	
J.C. KEENEY, Superintendent	)	
Oregon State Penitentiary,	)	
	)	
Defendant.	)	

TRANSCRIPT OF PROCEEDINGS:

BE IT REMEMBERED that the above-entitled matter came on regularly for hearing before the Honorable Richard D. Barber, on the 6th day of January, 1987, at 2 p.m., at the Marion County Courthouse, Salem, Oregon.

APPEARANCES:

Ronald M. Hellewell, Attorney at Law, representing the Petitioner;

Robert J. Jackson, Assistant Attorney General for the State of Oregon, representing the Defendant;

Terry Prieto, Spanish interpreter.

[Index omitted in printing]

[2]

(Whereupon, the following proceedings were had, to wit:)

MR. JACKSON: Your Honor, the next case is the case of Jose Tamayo Reyes versus J.C. Keeney, Marion case number 85-2612. Mr. Reyes appears in court in custody with his attorney Ron Hellewell. I'll be representing the Defendant.

THE COURT: Will this lady be serving as an interpreter?

MR. HELLEWELL: We're assisted by Mrs. Terry Prieto, P-r-i-e-t-o.

THE COURT: Will the interpreter please rise and be sworn.

TERRY PRIETO,

was sworn as the Spanish interpreter.

THE COURT: Mr. Hellewell, did you have an opening statement?

MR. HELLEWELL: Yes, Your Honor. Your Honor, the issue in this case is the interpreter. Mr. Reyes was charged with the crime of murder. He was represented by an attorney, and the attorney was assisted by an interpreter. The attorney was Mr. Haw, [*sic*] the interpreter was Mr. Ben Sanchez. Through several court appearances and several negotiations it resulted in Mr. Reyes pleading guilty to the charge of

[3]

Manslaughter.

The case was continued for preparation of the presentence investigation report and returned for sentencing. The problem is that the interpreter, Mr. Sanchez, I think, can best be described as somewhat loose or colloquial or paraphrasing in his interpreting to Mr. Reyes. We have information to present to the Court on those matters. It resulted in the fact that Mr. Reyes was confused and did not understand that the proceedings against him were of the nature that they were, that is, a plea to a lesser-

included offense; in exchange for and that there would be no trial.

Specifically Mr. Reyes mentioned on several occasions to his attorney, to the interpreter, that he wishes witnesses to appear on his behalf. Now, we know that that process is a trial or perhaps in a very limited sense a mitigation hearing at the time of sentencing. Mr. Reyes could not articulate and so precise terminology what exactly was being done there, but he made it clear he wanted his witnesses.

He did admit from the beginning that there was a death and that he was involved at the time, but he wishes his witnesses to appear and explain to the Court the circumstances. It was — The event itself was a tavern fight, and things were quite confused, and Mr. Reyes was not certain himself of the exact sequence of events or his role in them. That's why he wanted these witnesses to appear.

[4]

We would be presenting evidence to the Court of the role of Mr. Sanchez, the interpreter, and Mr. Reyes perception of what happened.

THE COURT: Mr. Jackson.

MR. JACKSON: I'll waive opening, Your Honor.

THE COURT: All right. You may call you witness.

MR. HELLEWELL: Before we begin that, Your Honor, I would like, if I may, to hand up to the Court the documents referred to, if we could do them perhaps all at once to make matters easier. First is the transcript of proceedings December 11, 1984 in the trial court in which the plea of guilty was entered. The second is a transcript of proceedings January 22, 1985 in which sentencing was pronounced. Third is the deposition of Ben Sanchez taken September 26, '86.

MR. JACKSON: I have no objection to any of those, Your Honor.

THE COURT: All right. Exhibits 1 through 4 are received.

MR. HELLEWELL: We'd be referring to those later, but now we'd like to call Mr. Reyes as a witness.

THE COURT: There are only three exhibits, aren't there? Exhibits 1 through 3 are received.

All right. I have some instructions for the interpreter now. When a question is asked, it will be asked by Mr.

[5]

Hellewell through you. You will translate that to the witness. He will give you his answer in Spanish. You will translate it and give it back to the Court.

THE INTERPRETER: Yes, sir.

THE COURT: And so use the first person; don't use, he says this or he says that. Do you understand?

THE INTERPRETER: Yes, Your Honor.

THE COURT: All right. Stand and be sworn please. Stand with him and translate for him.

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JOSE TAMAYO REYES,

called as a witness on his own behalf as Petitioner, being first duly sworn, was examined and testified through the Spanish interpreter as follows:

THE CLERK: Please state your full name and spell your first and last name.

THE WITNESS: Jose Tamayo Reyes.

THE COURT: R-e-y-e-s?

THE WITNESS: R-e-y-e-s.

THE COURT: All right. Go ahead.

DIRECT EXAMINATION

BY MR. HELLEWELL:

Q Mr. Reyes, how old are you?

A 39.

Q Where were you born?

A In the field near Bayamo.

Q What country?

A Cuba.

Q And I think you were trying to describe maybe the name of the town. What is the town that was closest?

A Bayamo.

Q Thank you. Did you attend school?

A No.

[7]

Q Have you learned on your own to read and write in Spanish?

A I learned a little bit reading books.

Q You now are in custody at the Oregon State Penitentiary, right?

A Yes.

Q Do you now understand English?

A Some words.

Q Have you been studying English while in the penitentiary?

A Yes.

Q In 1984 you were charged with murder? Do you remember that?

A Yes.

Q And you were assisted by an attorney. Do you remember him?

A Yes.

Q And you were also assisted by an interpreter?

A Yes.

Q Did you make several appearances in court?

A Yes, and I went a few times, but I didn't understood the interpreter when he was explaining me what was happening.

Q Why did you not understand what the interpreter said to you?

A I don't know, because he didn't explain it to me.

[8]

They were discussing and talking. He didn't say to me what was happening.

Q Do you remember at least one occasion in which several people came to court on your behalf?

A It was only one witness, and there needed to be another one in there, and then the lawyer wanted to know what he was there. It was one of the witnesses that he talk, and then the other lawyer said why he was talking in my favor.

Q Do you remember a hearing on the issue of bail, that is, being released from custody on the payment of some sum of money?

A No, then he — They never explained that to me.

Q Where there other witnesses who you wanted to come to court?

A The girl who was the problem.

MR. HELLEWELL: (To the interpreter) Please stop.

A It was the girl who was the problem. And then there was another Chicano man, which is an American-Mexican, but when the investigator was going to the bar and asking for him, everybody said that he was not there, and the girl was there too.

Q Were there other witnesses too besides those that you've mentioned?

A The one that come over here, Pedro Rodriquez.

[9]

Q Do you recall signing a piece of paper when you were in court?

A When I was sitting in the courtroom Mr. Sanchez asked me to sign a piece of paper, and I asked him what should I sign it; I don't even know what it says. He said, "Just sign it."

Q Did Mr. Sanchez read it to you?

A No. He didn't read to me; he just said to sign it. And I just ask him, I just wanted to go trial with everybody, all the witnesses and everybody.

Q Did you sign the paper?

A And I signed the paper because he told me there was going to have a court with all the people.

Q Did you do any writing on the paper besides the place where you wrote your name?

A No, just my name Jose Tamayo.

Q Did Mr. Sanchez do some writing on that paper in front of you?

A I don't remember.

Q Did your attorney, Mr. Hawk, do any writing on that paper in front of you?

A I think he did.

Q Why did you want the witnesses to come to court?

A Because they were saying the truth and how the case happened.

Q When did you find out that the witnesses would not be

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coming?

A It was while I was at county, and I asked Mr. Sanchez to look for them and —

Q But when did you find out that they were not going to come, that you would not have a chance to talk to them in court?

MR. HELLEWELL: (To the interpreter) Please wait.

A That was in the last court they appear and they just stopped me and they say, well, you got 20 years and 8 years, and I asked Mr. Sanchez what happened.

Q Did you speak to the judge?

A No, I didn't talk to the judge. The only thing I say I heard is after the finish I stand up and they told me they have 28 years — 20 and 8 years, And then I asked Mr. Sanchez, well, what happens, Sanchez? Where the people? Where is the witnesses? And he said, "No, the court is over. That's it."

MR. HELLEWELL: Thank you. No further questions.

MR. JACKSON: I don't have any questions of this witness, Your Honor.

THE COURT: You may step down.

MR. HELLEWELL: We have no further witnesses, just argument.

[11]

THE COURT: Mr. Jackson.

MR. JACKSON: Yes, Your Honor. I would like to point out to the Court that in the back of the deposition of Ben Sanchez there is a copy of the Plea Petition that was filed in this case. I have an Exhibit 101, Your Honor, which is an affidavit of Tommy Hawk. I believe I've supplied you with a copy of that previously.

THE COURT: There's one in the file. Is that the same one? Also one of Mr. Sanchez.

MR. JACKSON: Could be. Those might have been filed. That was at the time my Secretary was sending them to the Court.

THE COURT: Do you want Mr. Sanchez's in also?

MR. JACKSON: Yes, sir. I would like to have that in there also. We'll make that Exhibit 102, if we could.

THE COURT: All right. Exhibits 101 and 102 are received, unless you have any objection.

MR. HELLEWELL: No objection.

MR. JACKSON: Your Honor, with that the Defendant would rest. I do have some argument and response to Mr. Hellewell's comments.

THE COURT: All right, Mr. Hellewell.

MR. HELLEWELL: Your Honor, I'd like to point out some specific items in these transcripts and depositions. First, let's begin with the transcript of the deposition of Ben

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Sanchez, page 6, beginning with line 18 and running through the next couple of lines, i.e., the questions being propounded in this section were by me, and the answers by Mr. Sanchez.

I asked him about his courtroom experience in interpreting. His answer beginning on line 20 was that he had not done it very many times as an interpreter. He worked — In the preceding lines he explained that he had worked as an attorney for Spanish-speaking people but not as an interpreter.

Moving in the same deposition to page 14, beginning at line 6, question and answer there concerning his ability to read Spanish, his answer, "Very little, unless I absolutely have to, and it has to be very slow."

We'll have another comment or further qualifications. I think his experience in Spanish as shown in other parts of this deposition were that he has conversation but not schooled in the language.

Also in the deposition of Mr. Sanchez on page 11 and 12 there was an exchange there between himself and me concerning vocabulary for these terms. The two most important terms under consideration while this case was being considered at the trial level were murder and manslaughter. Those terms are quite difficult to understand to someone not schooled in the law and having a precise legal definition. Furthermore, they are not capable of interpretation in the Spanish language by any single word because they —

[13]

MR. JACKSON: Your Honor, I'm going to have to object to this unless Mr. Hellewell's putting himself forth as an expert witness. He's trying to provide this Court with testimony in regard to the application of the Spanish language, and I don't think that's proper.

THE COURT: The Court is aware of Mr. Hellewell's ability to communicate in the Spanish language.

MR. JACKSON: However, Your Honor, we could bring in I don't know how many experts that we can bring in, if he wants to present himself as a witness to talk about what the terms mean that are put down here. He's contesting this witness's ability to interpret by his own interpretations, and unless he's going to go on the record as a witness to do that, which he's already rested, then that's fine, but he can't sit here and say what the meaning of Spanish words are that Mr. Sanchez has translated in his deposition.

THE COURT: Does this appear in the evidence anywhere?

MR. HELLEWELL: Yes, Your Honor. I can solve this problem by relying strictly on the words printed here in the transcript beginning at line 3 on page 11. Mr. Sanchez replied,

"Murder, that he had killed somebody without the right to do so." I'd like the Court to be aware that that is a fairly complete description of the term as we use it in our statutes. Then moving down to the

[14]

foot of that page, Mr. Sanchez did explain those same words in Spanish spelling the words for the reporter.

Moving to page 13, beginning at line 8, I asked him to describe his word for manslaughter. He responded on line 9 in Spanish that then he himself translated to English "that it was less than murder."

I submit to the Court that that is a very brief, very incomplete description of the term for manslaughter.

Following on that page is his spelling for the reporter in Spanish of the words used, but his interpretation is there on page 9, that it was less than a murder.

THE COURT: But you just referred to page 13, and I think you were actually on page 12.

MR. HELLEWELL: Oh, yes. I beg your pardon. Page 12.

Finally, one more item that I'd like to bring to the Court's attention in this deposition on page 14 beginning at line 19, again, the issue concerning the witnesses.

MR. JACKSON: What page is that please?

MR. HELLEWELL: Page 14, beginning with the question on page 19, the question about the witnesses appearing for the Defendant, "Did he ask you about witnesses appearing for him?" Answer, "Yes."

"Did he want to know if witnesses would be there" Answer, "Yes." Then I would point out to make the

[15]

record complete, "And did you tell him that they would not? I told him they would not unless there a trial." I think a word perhaps is omitted there. Again, just pointing out for the Court that there was this concern on the part of the Defendant at the trial, Mr. Reyes, concerning the witnesses.

Finally, the exhibit which is attached to this transcript is the Plea Petition. The very final page under paragraph 14, the Plea Petition form apparently used in Multnomah County requests something of the facts to support the plea. The handwriting there Mr. Reyes has testified is not his; however, he discussed the matter with Mr. Sanchez, and so apparently for our purposes we can assume that these are his words. I believe it says, this script is somewhat difficult to read, "I request court to consider testimony of witnesses who testified during my bail hearing as factual basis for my plea," again, another indication on the part of Mr. Reyes that whatever the meaning of this process was, that there still would be witnesses.

Returning now to the earliest of these documents, which is the transcript of proceedings of December 11 '84, in this proceeding the court did inquire of Mr. Sanchez concerning his qualifications. At the bottom of page 2 the court inquired if Mr. Sanchez was a member of the State bar, and the last line on that page by the court, "And you speak, read and write Spanish fluently?" On page 3 the interpreter

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responded, "I do not write or read Spanish. I only speak it."

Just for the Court's clarification, on line 4, the question by the court, "Did you read this Plea Petition to Mr. Reyes in

Spanish?" Then he answered, "Yes." I think that meant to say, did you read him the Plea Petition and translate it as you want, the Plea Petition, of course, being written in English.

Further, in this same proceeding on page 4, the court, beginning on line 5, began to inform the defendant of his rights. He went through two paragraphs on that page informing him of his rights to trial, testimony, assistance of counsel, and so on. The final line on that in that section the court asked the Defendant if he understood, line 23, the witness responded, "More or less."

Continuing on page 5, the court repeated the questions in order to get a clear understanding. The Defendant responded — well, the interpreter responded apparently on behalf of the Defendant, "He doesn't know anything about such things." The court persisted, asked the question again. The interpreter responded, "He says, 'I don't comprehend.'" The court still persisted asking the question again, at which point a discussion was held off the record. We don't know the substance of that discussion, but the interpreter returned and said, "He says, okay."

I would submit to the Court that there was not a

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clear and precise explanation to him of his rights to trial and that he was waiving those rights.

Your Honor, the problem is here that Mr. Reyes is not well-schooled. He was certainly not aware of the proceedings of legal nature against him. He had to rely solely upon the words spoken to him by the interpreter. Mr. Sanchez may have a colloquial understanding of the language, as explained in his deposition, that he has spoken of as his native language, but is not schooled in it. His definitions of the most important words,

murder and manslaughter, were not precise, and throughout the proceeding Mr. Reyes made it clear that he wanted people to come and talk on his behalf.

Now, we know that's a trial, and Mr. Reyes may not be able to articulate that as a legal principal [*sic*], but that's the right that he wished to preserve, and he did not by this proceeding.

MR. JACKSON: Your Honor, very briefly, the testimony of Mr. Hawk and Mr. Sanchez through their affidavits and depositions show clearly that at the time anyway Mr. Reyes knew just exactly what was going on and understood the proceedings. In the process of interpreting, maybe they are not exact, but I would point out to the Court there's been much made of the fact that Mr. Sanchez does not read or write Spanish. There is not one item involved in this case that was written in Spanish for him to read or that required him to

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write out anything in Spanish. What is required him to do was to translate the English language in this Petition into Spanish.

I submit to the Court that Mr. Sanchez is a highly educated individual with a law degree as well as a college degree, and his native language is Spanish. I submit to the Court that I have had several years of Spanish myself. I can maybe read and write Spanish better than Mr. Sanchez can, but I'd rather have him interpreting for me because that's what was necessary in this case was to be able to speak it and understand it.

The facts for the factual basis for the plea were referring to a bail hearing that was held, and that's the time that these witnesses were apparently put on for the purposes of making

sure that Mr. Reyes was not given bail at that time, and they chose to use that testimony as the factual basis for the plan. There is certainly nothing wrong with that, and there's nothing that indicates he expected any witnesses to appear at a trial from what he was pleading guilty to just because there was witnesses at the bail hearing.

He said that Mr. Sanchez may have a colloquial understanding of Spanish but couldn't read or write it and didn't have any schooling in it. The fact is it's been presented by Mr. Hellewell through his witnesses that the Petitioner in this case doesn't have any schooling in Spanish

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either and that his only understanding of Spanish is colloquial understanding of it. And that would be a far better match, I would contend, than a school-trained, Castilian Spanish-speaking person to a uneducated person of Spanish decent that has not ever had any formal training in Spanish.

Your Honor, this case is very simple. The depositions and the evidence that has been presented show that this plea was knowingly and voluntarily entered. We'd ask the Court to deny the Petition's Petition for Post-Conviction Relief.

THE COURT: Any response?

MR. HELLEWELL: Just one brief response. This Plea Petition talking about the witnesses, I think it was merely a shorthand way of describing who those people were; I want the people to come who came at the bail hearing. I don't think that there was any indication at that point that the bail hearing should be carried over to the entry of the pleas. And secondly, I'm not relying that much on ability to read and write; I'm relying on the ability as manifested especially by the deposition of Mr. Sanchez

himself to adequately communicate in language precise enough of the precise legal terms involved.

THE COURT: All right. The case is under advisement.

* * * *

[Certification and signatures omitted in printing]

POST-CONVICTION COURT'S FINDINGS

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION
No. 85-2612

JOSE TAMAYO REYES,)
Petitioner,)
v.)
J.C. KEENEY, Superintendent,)
Oregon State Penitentiary,)
Defendant.)

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND JUDGMENT

This matter came before the court and the Honorable Richard D. Barber for trial on petitioner's Petition for Post-Conviction Relief. Petitioner appeared in person and by his attorney, Ronald M. Hellewell, and defendant appeared by and through his attorney, Robert J. Jackson, Assistant Attorney General.

In this proceeding, petitioner contends that his conviction is void and the subsequent sentence invalid in that the conviction was obtained in violation of his constitutional rights.

Specifically, petitioner claims that:

1. Petitioner did not knowingly or voluntarily enter a plea of guilty to the charge of Manslaughter in the First Degree, it being his understanding that the charge was being amended from Murder I to Manslaughter I and that he would then proceed to trial on the lesser charge.

2. Petitioner was denied effective or adequate assistance of counsel for the reason that Petitioner's attorney, Mr. Tommy

Hawk, did not speak Spanish and Petitioner does not speak or understand English.

3. Petitioner was denied effective or adequate assistance of counsel for the reason that the interpreter, Mr. Ben Sanchez, did not correctly, fully or accurately translate the communications between Petitioner and his attorney, which resulted in Petitioner's failing to understand that the charge was being reduced only because he was pleading guilty. Further, Petitioner did not understand that he was giving up his rights to trial by jury to see, hear and confront the witnesses against him, to call witnesses and present evidence in his own behalf; and his right against self-incrimination.

FINDINGS OF FACT

1. Petitioner's plea of guilty was knowingly and voluntarily entered.

2. Petitioner was properly served by an interpreter in the proceedings leading to his conviction.

3. The interpreter correctly, fully and accurately translated the communications between Petitioner and his attorney.

4. Petitioner has not sustained his burden of proof in regard to any of the allegations in his petition.

5. Representation by counsel was reasonable and effective under the circumstances.

CONCLUSIONS OF LAW

1. Petitioner was not denied his right to effective assistance of counsel.

2. Petitioner is not entitled to post-conviction relief.

Based on the foregoing Findings of Fact and Conclusions of Law, the court makes the following:

JUDGMENT

NOW, THEREFORE, IT IS ORDERED that petitioner's Petition for Post-Conviction Relief is denied and dismissed with petitioner obtaining no relief thereunder.

DATED at Salem, Oregon, this 22 day of March, 1987.

[Signature omitted in printing]

HABEAS PETITION

PETITION UNDER 28 USC § 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

AO 241 (REV. 5/85)

UNITED STATES DISTRICT COURT	District OF OREGON	
Name JOSE TAMAYO REYES	Prisoner No. #48162	Case No.
Place of Confinement: OREGON STATE PENITENTIARY		
Name of Petitioner		
The Attorney General of the State of: DAVE FROHNMAYER		

PETITION

1. Name and location of court which entered the judgment of conviction under attack MULTNOMAH COUNTY CIRCUIT COURT, Portland, Oregon 97204
2. Date of judgment of conviction JANUARY 22-1985 at 9:15 a.m. Time of Sentencing.
3. Length of sentence TWENTY YEARS with EIGHT YEARS MINIMUM Sentence
4. Nature of offense involved (all counts) Mr. REYES WAS CONVICTED OF MANSLAUGHTER.
5. What was your plea? (Check one)
   (a) Not guilty ☐
   (b) Guilty ☐
   (c) Nolo contendere ☑
   If you entered a guilty plea to one count or indictment, and a not guilty plea to another county or indictment, give details: N/A

6. If you pleaded not guilty, what kind of trial did you have? (Check one) N/A

(a) Jury ☐

(b) Judge only ☐

7. Did you testify at the trial? N/A

Yes ☐ No ☐

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☑

9. If you did appeal, answer the following:

(a) Name of court N/A

(b) Result

(c) Date of result and citation, if known N/A

(d) Grounds raised N/A

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court N/A

(2) Result N/A

(3) Date of result and citation, if known N/A

(4) Grounds raised N/A

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court N/A

(2) Result N/A

(3) Date of result and citation, if known N/A

(4) Grounds raised N/A

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☑ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court MARION COUNTY CIRCUIT COURT

(2) Nature of proceeding POST CONVICTION RELIEF ORS 138.510.

(3) Grounds raised PLEA OF NO CONTEST WAS NOT ENTERED KNOWINGLY, VOLUNTARILY AND COMPETENTLY; INEFFECTIVE ASSISTANCE OF COUNSEL due to fact that Trial Counsel did not speak, read, or write spanish and as result petitioner did not understand the proceedings or that he was pleading no-contest; see attached page "4-A" citing other grounds raised:

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result POST CONVICTION RELIEF DENIED

(6) Date of result 23rd. March -1987

(b) As to any second petition, application or motion give the same information:

(1) Name of court NON-APPLICABLE.

(2) Nature of proceeding N/A

(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result

(6) Date of result

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☑ No ☐

(2) Second petition, etc. Yes ☐ No ☐

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

N/A

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

→ (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

(c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.

(d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.

(e) Conviction obtained by a violation of the privilege against self-incrimination.

(f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.

(g) Conviction obtained by a violation of the protection against double jeopardy.

(h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.

(i) Denial of effective assistance of counsel.

→ (j) Denial of right of appeal.

A. Ground one: (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and

(SUPPLEMENTAL PAGE)

PAGE "4-A", Continuance of Page 4 specifically setion [*sic*] "11." subsection (3) " GROUNDS RAISED :

(3" continued: Ineffective assistance of Counsel due to fact that interpretator [*sic*] did not accurately translate Trial Counsels advice to defendant and as a result petitioner did not understand the proceedings. END.

consequences of the plea

Supporting FACTS (state *briefly* without citing cases or law) Petitioner did not knowingly or voluntarily enter a plea of guilty to the charge of manslaughter in the first degree, it being his understanding that the charge was being amended from Murder I to Manslaughter I and that he would then proceed to trial on the lesser charge.End.//////////////////////////

B. Ground two: Petitioner was denied effective or adequate assistance of counsel for the reason that Petitioner's Attorney, Mr. TOMMY HAWK, did not speak spanish and Petitioner does not speak/understand english.

Supporting FACTS (state *briefly* without citing cases or law): Petitioner since the date of arrest has had difficulty understanding his Attorney's advice as well as all other relevant information that his attorney has attempted to relay to petitioner, this is due to the language problem as a result petitioner nerver [*sic*] understood the proceedings or the nature of the crime to which he plead no contest.End.//

C. Ground three: Petitioner was denied effective or adequate assistance of counsel for the reason that the interpreter ,Mr. Ben Sanchez did not correctly translate the communications of Defense Counsel.

Supporting FACTS (state *briefly* without citing cases or law): Petitioner was denied effective assistence [*sic*] of Counsel due to the fact that the interpretator [*sic*] did not accurately translate the communications of his defence [*sic*] counsel which resulted in petitioner's failing to understand that the charge was being reduced only because he was pleading guilty. Further, petitioner did not understand

that he was giving up his rights to trial by jury,on confrontation, self-incrimination, plus the right to present his own witnesses and defence.[*sic*]End. //////////////

D. Petitioner was denied effective assistance of Counsel on Appeal From the Post-Conviction Proceedings in violation of the 14th, Amendment OF The United States Constitution.

Supporting FACTS (state *briefly* without citing cases or law):
Petitioner's defence [*sic*] counsel on Appeal Mr. RONALD M. HELLEWELL failed to follow the RULES OF APPELLATE PROCEDURE when he typed up the Appeal Brief on the denial of relief in the State Post-Conviction Proceedings as a result Petitioner's case was affirmed without opinion and the Court Of Appeals did not hear petitioner's case on the merits. End./

13. If any of the grounds listed 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: There is no state Court Rule or State Statute giving a court jurisdiction to grant relief in a situation as that faced by petitioner at present; Petitioner's case is unique on this point; it is a case of first impression.See Attached Memorandum of law this one issue. End.//////////////////////////

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes ☐ No ☑

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing ATTORNEY AT LAW : TOMMY HAWK#69070, Suite 301, 700 S.W. TAYLOR, Portland,Oregon 97305.

(b) At arraignment and plea SAME AS ABOVE : (a).

(c) At trial same as above :(a).

(d) At sentencing same as above :(a).

(e) On appeal NO APPEAL WAS EVER DONE.

(f) In any post-conviction proceeding ATTORNEY AT LAW : RONALD N. HELLEWELL, 475 COTTAGE N.E., Suite 250, Salem,Or. 97301.

(g) On appeal from any adverse ruling in a post-conviction proceeding SAME AS ABOVE: (f).

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
Yes ☐ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
Yes ☐ No ☑

(a) If so, give name and location of court which imposed sentence to be served in the future: N/A

(b) Give date and length of the above sentence N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
Yes ☐ No ☑

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

/s/ X Jose Tamayo Reyes
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 1-1988
(date)

/s/ X Jose Tamayo Reyes
Signature of Petitioner

AFFIDAVIT OF SPANISH TRANSLATOR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOSE TAMAYO REYES,	)	
	)	Civil No. 88-6061-E
Petitioner,	)	
	)	AFFIDAVIT OF
vs.	)	SPANISH TRANS-
	)	LATOR MERCEDES
J.C. KEENEY,	)	R. EDGERTON
	)	
Respondent.	)	

STATE OF OREGON)
) ss.
County of Multnomah)

I, Mercedes Edgerton, being first duly sworn, depose and say:

1) At the request of Mr. Steven Jacobson, attorney of law representing Jose Tamayo-Reyes in the above captioned case, I have read and reviewed written material from the state post-conviction proceeding including the deposition of Mr. Dennis Sanchez.

2) I was asked to evaluate those documents because Spanish is my native language, I have over thirty years of experience teaching English and Spanish at the university level and over ten years experience translating and interpreting from English into Spanish and Spanish into English. I have worked as a teacher, translator, interpreter, and language consultant. I have performed

several hundred hours of in-court interpretation in U.S. Immigration Court, U.S. Federal Court, and Circuit and District Courts in the State of Oregon. My background and experience is more fully set forth in the resume which is attached to this affidavit.

3) Judging from the sample of the Spanish used by Mr. Sanchez in said deposition, it is the opinion of this evaluator that it was confusing and misleading. For example, when asked what word or phrase he had used to communicate "murder", Mr. Sanchez said, "matador." The word "matador" is an adjective meaning "that kills" as for example: "Arsenic is a substance that kills." The words Mr. Sanchez should have used for the English word "murder" were "asesinato" or "homicidio." Starting on line 23 of page 11 of the said deposition, Mr. Sanchez's Spanish rendition of the English "...that he had killed somebody without the right to do so." was "queusted mato una persona permysso dercheo paramata" This Spanish rendition does not convey the intent of the English phrase. The English equivalent of what Mr. Sanchez said in Spanish is "that you killed a person permission (sic) right to you/he/she/kill/s." This is assuming that the word spelled "permysso" was meant to be "permiso" and the word spelled "dercheo" was meant to be "derecho." The proper Spanish rendition of "that he had killed somebody without the right to do so" is "que el habia matado a alguien sin haber tenido permiso para hacerlo."

The above examples are strong indications that the communication between Mr.Sanchez and Mr. Tamayo-Reyes was confusing and very likely misunderstood. Whether Mr. Sanchez used first person or third person to conduct his interpretation assignments could greatly change the meaning of what was being said to Mr. Tamayo-Reyes and vice versa.

4) Given the written transcript of Mr. Sanchez's deposition, one cannot reach any certain conclusions about his ability or inability to interpret court proceedings to Mr. Reyes. From what little information is there, I have pointed out what appeared to me to be serious shortcomings in his translation. In fairness to all concerned, I believe an oral evaluation of Mr. Sanchez's Spanish and his ability to interpret in court should be undertaken. In any event, much more information is needed before anyone could determine that Mr. Sanchez was an adequate interpreter.

DATED this 14th day of June, 1989.

[Signature and certification omitted in printing]

Mercedes R. Edgerton
3207 N.E. 98th Circle
Vancouver, WA 98665
(206) 574-3826

R E S U M E

PERSONAL DATA:

Date of Birth: September 13, 1929

Birthplace: Guatemala City, Guatemala, C.A.

Nationality: Guatemalan

Permanent Alien Registration No.: A-10 564 932

Marital Status: Married

Soc. Sec. No.: 521-40-0895

EDUCATION:

Monterey Institute of International Studies Monterey, California	Course In Court Interpretation July and August 1987
North Seattle Community College, Seattle, Washington	Business Administration 1971-1972
University of Washington Seattle, Washington	Behavioral, Abnormal and Child Psychology; Art Appreciation 1958-1959
Foreign Service Institute Department of State Washington, D.C.	Special Training on Audio-lingual Methodology 1956-1957
Universidad de San Carlos Guatemala City, Guatemala C.A.	Spanish Literature and Linguistics 1952-1953
Georgian Court College Lakewood, New Jersey	Liberal Arts Program 1947-1948

St. Genevieve-of-the-Pines Asheville, North Carolina	High School Diploma 1947

Member: California Court Interpreters Association
National Association of Judiciary Interpreters and Translators
American Translators Association

In 1956 I was awarded an academic scholarship to the University of Miami, Ohio

EMPLOYMENT:

Free-Lance Interpreter/Translator Spanish/English English/Spanish	1985 to present
Technical Translator	1988 to present
Hewlett-Packard, Vancouver Division 14110 S.E. 34th Street Camas, WA 98809 (206) 254-1810 Mr. Don Barnett, Learning Products Mgr.	DUTIES: Ready for publication translations of all users manuals
Transcription and Translation	1987 to present
U.S. Department of Justice Immigration & Naturalization Service 511 N.W. Broadway Portland, OR 97209	DUTIES: Transcription and translation of confidential material.
Drug Enforcement Administration 1220 S.W. Third Portland, OR 97205	DUTIES: Transcription and translation of confidential material.

Court Interpretation:	DUTIES:
U.S. Federal Court, Portland, OR Mr. Steve Wax, Director Federal Public Defender Office 615 SW Broadway, Suite 200 Portland, OR 97205 Mr. Stephen R.Sady Chief Deputy Federal Public Defender 615 SW Broadway, Suite 200 Portland, OR 97205	In court and out of court interpretation for witnesses and defendants.
Oregon District Court, Portland, OR Ninth District Immigration Court Portland, Oregon The Honorable William F. Nail Jr. and The Honorable Daniel F. Kahn Presiding Judges	Duties: In court interpretation during immigration court proceedings.
Circuit and District Courts for Multnomah County 1021 S.W. Fourth Avenue Portland, OR 97204	DUTIES: In court and out of court interpretation for witnesses and defendants.
Medical Interpretation:	1982 to present
Northwest Pain Center 10615 S.E. Cherry Blossom Dr. Portland, OR 97215 Dr. Joel Serea, Director	DUTIES: Interpret during medical evaluation and treatment.

Orthopaedic Consultants, P.C. 2525 N.E. Lovejoy — Suite 400 Portland, OR 97210	1985 to present DUTIES: Interpretation during medical examination and/or evaluation of patients.
Western Medical Consultants, Inc. 1099 S.W. Columbia — Suite 300 Portland, Oregon	Same as above.
Portland Orthopedic Clinic PC 3025 North Vancouver Portland, Oregon	Same as above.
Stephen J. Thomas, M.D., P.C. 17600 S.W. Alexander Aloha, Oregon	Salem as above.
John B. Hardman, M.D., P.C. 10202 S.E. 32, Suite 101 Milwaukie, Oregon	Same as above.
Orthopaedic Panel Consultants Dr. Donald L. Stainsby 1120 Cherry, Suite 230 Seattle, Washington	1980 to 1986 Same as above.

Interpretation for Administrative Hearings and Legal Depositions

1980 to present

DUTIES:
Interpretation during legal procedures which included interpretation in a week long deposition related to an international multimillion dollar law suit in Seattle, Washington.

Portland School of Languages
1422 East Burnside
Portland, Oregon
Mr. Dieter Waiblinger, Director

Spanish Teacher, Interpreter, and Translator

1986 to present

DUTIES:
Direct method is used for all instructions. I am reponsible [*sic*] for the training of new teachers.

Berlitz School of Languages
1525 Fourth Avenue
Seattle, Washington
Mr. Jeff Barger, Director

Spanish/English Teacher/ Interpreter/Translator

1980 to present

DUTIES:
Besides my teaching duties at this prestigious institution, I am the method teacher in Seattle/Portland.

University of Washington
College of Education Advisory Office
311 Miller Hall DQ-12
Seattle, Washington
Dr. Norma Dimmitt, Director

1973 to 1979

DUTIES:
Assist Administrative supervisor in the general management of said office.

University of Washington
College of Arts and Sciences
Romance Languages Department
Padelford Hall GN-60
Seattle, Washington
Dr. Marcelino Penuelas, Chairman

1972 to 1973

DUTIES:
Same as above

North Seattle Community College
College of Arts and Sciences
9600 College Way North
Seattle, Washington
Dr. Stafford Miller, Chairman

Spanish Teacher
Elementary, Intermediate and Advanced Spanish Courses

Spring Quarter 1972

DUTIES:
Emphasis was given to oral expression at all levels in instruction

Central T.V.
306 Dexter Avenue North
Seattle, Washington
Mr. Lee Wagoner, Owner

1970 to 1971

DUTIES:
Customer service Representative. This involved a great deal of contact with the public.

University of Washington
College of Arts and Sciences
Department of Romance Languages
Dr. Howard L. Nostrand, Chairman

1962 to 1966

DUTIES:
The emphasis was on oral expression, and the topics varied from simple literary analysis to current events.

The Bon Marche
Fourth and Pine
Seattle, Washington
Ms. Amy Martin, Manager

1958 to 1962

DUTIES:
Sales of various merchandize. Gave me a great insight in dealing with the general public

Seattle Public Schools
815 4th Avenue North
Seattle, Washington
Ms. Edna Babcock,
Director, Foreign Languages

Spanish Television Teacher

1958 to 1960

DUTIES:
Spanish television series for the third, fourth and fifth grades. The series for the 4th grade was nominated for an "Emmy".

Foreign Service Institute (FSI)
Department of State
Washington, D.C.
Dr. J. Donald Bowen, Director

Spanish Teacher

1954 to 1956
Guatemala City
1956 to 1957
Washington, D.C.

DUTIES:
Taught university level Spanish courses to foreign service personnel and their dependents

Institute Guatamaltaco Americano
(IGA)
Guatemala City, Guatemala
Central America
Ms. Alice Barrett Rudd, Director

English Teacher

1953 to 1956

DUTIES:
Taught university level English to adults. Oral expression was emphasized

OPINION OF NINTH CIRCUIT COURT OF APPEALS

[Opinion set forth in full as Appendix A, pages App-1 through App-25 of the printed petition for certiorari]

OPINION OF THE UNITED STATES DISTRICT COURT

[Opinion set forth in full as Appendix B, pages App-27 through App-32 of the printed petition for certiorari]

MAGISTRATE'S FINDINGS AND RECOMMENDATION

[Opinion set forth in full as Appendix C, pages App-33 through App-38 of the printed petition for certiorari]